

Message Text

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PAGE 01 SANTIA 02944 251712Z

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ACTION L-02

INFO OCT-01 ARA-10 ISO-00 JUSE-00 SCA-01 SSO-00 /014 W

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FM AMEMBASSY SANTIAGO

TO SECSTATE WASHDC IMMEDIATE 3063

UNCLAS SANTIAGO 2944

FOR L--MALMBORG, JUSTICE--MARONEY, FROM GAITHER

E.O. 11652: N/A

TAGS: PFOR, CI

SUBJECT: EXTRADITION TREATY NEGOTIATIONS--CHILE

1. HERE FOLLOWS THE LIST OF OFFENSES NEGOTIATED FOR
ARTICLE II OF THE TREATY OF EXTRADITION:

1. MURDER OR MANSLAUGHTER.
2. AGGRAVATED BODILY INJURY; MUTILATION.
3. ABORTION.
4. RAPE, STATUTORY RAPE, INDECENT ASSAULT.
5. PROCURATION; PROMOTING OR FACILITATING PROSTITUTION.
6. ABANDONMENT OF MINORS AND OF DESTITUTE PERSONS.
7. BIGAMY.
8. UNLAWFUL DEPRIVATION OF LIBERTY WITH OR WITHOUT RANSOM.
9. ROBBERY OR LARCENY OR BURGLARY.
10. EXTORTION OR THREATS.
11. EMBEZZLEMENT, FRAUD, UNLAWFUL APPROPRIATION AND USURY.
12. ARSON, MALICIOUS INJURY TO PROPERTY.
13. EXTORTION OR EMBEZZLEMENT BY A PUBLIC OFFICIAL, MALVERSATION.
14. COUNTERFEITING, FORGERY OR FALSIFICATION OF MONEY, BILLS,
DOCUMENTS OF CREDIT, STAMPS AND OTHER INSTRUMENTS CONTAINING
OFFICIAL INDICIA, STOCK CERTIFICATES, GOVERNMENT BONDS,
BILLS AND NOTES, SEALS, MARKS, AND PUBLIC AND PRIVATE
INSTRUMENTS IN GENERAL.
15. FALSE TESTIMONY, PERJURY AND MALICIOUS ACCUSATION OR
PROSECUTION.
16. OFFENSES AGAINST THE SAFETY OF A MEANS OF TRANSPORTA-

UNCLASSIFIED

UNCLASSIFIED

PAGE 02 SANTIA 02944 251712Z

TION OR COMMUNICATION, ESPECIALLY WHEN ENDANGERING

PERSONS MAKING USE OF SUCH MEANS; PIRACY AND ANY ACT OF MUTINY OR REVOLT ON BOARD A VESSEL OR AIRCRAFT AGAINST THE AUTHORITY OF THE CAPTAIN OR COMMANDER OF SUCH AIRCRAFT OR VESSEL, ANY SEIZURE OR EXERCISE OF CONTROL, COMMITTED BY FORCE, VIOLENCE, OR THREAT OF FORCE OR VIOLENCE, OF AN AIRCRAFT OR VESSEL; DESTRUCTION OR DAMAGE OF AIRCRAFT IN FLIGHT WHICH RENDERES IT INCAPABLE OF FLIGHT OR WHICH IS LIKELY TO ENDANGER ITS SAFETY IN FLIGHT, OR CAUSES A DEVIATION OF ROUTES; OR ANY ACT WHICH COULD ENDANGER THE LIFE, PHYSICAL INTEGRITY OR HEALTH OF THE PASSENGERS OR CREW, OR WHICH COULD DEPRIVE THEM OF THEIR LIBERTY.

17. OFFENSES AGAINST OR RELATING TO PUBLIC HEALTH AND PARTICULARLY THE TRADE, PRODUCTION, TRAFFIC, POSSESSION OR UNLAWFUL USE OF NARCOTICS, CANNABIS SATIVA L, PSYCHOTROPIC DRUGS, CHEMICAL PRODUCTS OR SUBSTANCES DANGEROUS OR INJURIOUS TO HEALTH OR OF PRIMARY MATERIALS DESTINED FOR FABRICATION OF THE ABOVE MENTIONED PRODUCTS, POISONING OR CONTAMINATION OF FOODSTUFFS, WATER OR BEVERAGES, ADULTERATION OF SUBSTANCES OR PRODUCTS INTENDED FOR CONSUMPTION, DISSEMINATION OF PATHOGENIC GERMS.
18. CORRUPTION OF JUDICIAL OFFICIALS, OBSTRUCTION OF JUSTICE AND BRIBERY.
19. ASSOCIATION FOR THE PURPOSE OF COMMITTING CRIMINAL ACTS.
20. ESCAPE BY A CONVICTED PERSON SENTENCED TO A TERM IN EXCESS OF ONE YEAR; CONDUCT BY A PUBLIC OFFICIAL WHICH ALLOWS THE ESCAPE OF A DETAINED OR ARRESTED PERSON WHO HAS BEEN CHARGED WITH OR CONVICTED OF AN OFFENSE PUNISHABLE BY A TERM IN EXCESS OF ONE YEAR.
21. FALSE STATEMENTS SUPPORTED BY FALSE CORROBORATING DOCUMENTED EVIDENCE MADE BEFORE A GOVERNMENT OFFICIAL OR AGENCY.
22. OBSTRUCTION OF THE MAIL WHEN COMMITTED BY A PUBLIC OFFICIAL.
23. ACTS OR AGREEMENTS INTENDED TO PREVENT FREE COMPETITION RELATED TO PRODUCTION OR DOMESTIC OR FOREIGN TRADE.
24. ISSUANCE OF CHECKS WITHOUT SUFFICIENT FUNDS OR AGAINST A CLOSED BANK ACCOUNT.
25. ANY OFFENSE AGAINST THE BANKRUPTCY LAWS.
26. SMUGGLING.
27. ASSAULT UPON A PUBLIC OFFICIAL.

UNCLASSIFIED

UNCLASSIFIED

PAGE 03 SANTIA 02944 251712Z

2. DEPT SHOULD NOTE THAT OFFENSE 20, ESCAPE, HAS NOT, TO OUR KNOWLEDGE, BEEN PREVIOUSLY INCLUDED IN EXTRADITION TREATIES. IT IS AN OFFENSE UNDER U.S. LAW, 18 USC 751 AND 752. U.S. DELEGATION OF VIEW THAT OFFENSE SHOULD BE ACCEPTED. WE RECOGNIZE THAT IT MIGHT INCREASE THE NUMBER OF EXTRADITION REQUESTS AND THAT THE OFFENSE FOR WHICH THE INDIVIDUAL MIGHT HAVE BEEN IMPRISONED MAY NOT BE AN EXTRADITABLE OFFENSE. HOWEVER, GIVEN

THE GENERAL INCREASE IN CRIME AND THE VERY SERIOUS SIDE EFFECTS THAT CAN BE CAUSED BY AN ESCAPE, THE OFFENSE IN ITSELF MERITS INCLUSION IN THE TREATY. WHILE THE CHILEAN NEGOTIATORS INITIALLY PROPOSED THE OFFENSE, U.S. DELEGATION LIMITED IT TO ESCAPE FROM CONFINEMENT EXCEEDING ONE YEAR. WE FELT THIS WAS APPROPRIATE UNDER THE CIRCUMSTANCES SINCE IT APPLIES ONLY TO THE MORE SERIOUS SITUATIONS. IN NEGOTIATING THE OFFENSE AS WELL AS IN DRAFTING IT, WE HAVE INTENDED TO EXCLUDE AS AN EXTRADITABLE OFFENSE PER SE THE CASE OF AN INDIVIDUAL WHO MIGHT VIOLATE PAROLE OR PROBATION.

3. NEGOTIATION OF FIRST PARAGRAPH OF ARTICLE 2 NOT YET COMPLETED. LAST PARAGRAPHS OF ARTICLE 2 WILL APPEAR AS ARTICLE 3. BOTH WILL BE SENT AS SOON AS TEXTS AGREED.

4. UNLESS OTHERWISE INSTRUCTED BY OPENING OF BUSINESS TUESDAY, APRIL 29, U.S. DEL WILL ASSUME LIST ACCEPTABLE. DELEGATION HAS DISCUSSED OR PROPOSED ALL OFFENSES LIST OF DEPARTMENT'S MODEL TREATY. IF OFFENSES NOT PRESENT IN NEGOTIATED TEXT, WE WERE UNABLE TO OBTAIN IT DUE TO LACK OF SIMILAR PROVISIONS IN CHILEAN LAW OR INSUFFICIENT PENALTY TO WARRANT INCLUSION.
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